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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/613,579 | 07/02/2003 | Brett M. Rose | 2083 | 5443 |
| 39597 | 7590 | 01/13/2005 | EXAMINER | |
| OLSON AND OLSON 5412 SE FOSTER ROAD PORTLAND, OR 97206 | | | PAHNG, JASON Y | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3725 | |
| DATE MAILED: 01/13/2005 | | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|------------------------|---------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/613,579 | ROSE ET AL. |
| | Examiner | Art Unit |
| | Jason Y Pahng | 3725 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on ____.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-17 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-17 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 18 March 2004 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 7/2/2003.

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ .
5) Notice of Informal Patent Application (PTO-152)
6) Other: ____ .

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 7, 8, 14, and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. With regard to claims 7 (lines 2 and 3), 14 (line 3), 15 (line 3), it is not clear whether the feed conveyor or the feed hopper is capable of movement toward and away from the drum.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 and 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Greist (US 965,813) in view of Branscome (US 5,624,077). With regard to claims 1 and 9, Greist discloses a tumbling device with substantially all of the claimed structure including:

1. a substantially hollow tumbling drum (12) supported on a base frame for rotation (column 2, lines 81-94);

2. an opening (for cover 12) in one of the ends of the drum (12); and
3. a tilt means (Figures 1 and 2).

Greist discloses a rotation means for the drum, but does not recite that it is powered.

Providing a power means is an ordinary engineering design. In a closely related art, Branscome discloses a tumbling device with a power drive means (42). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to provide Greist's drum rotation means with a powered drive, as such would be a mere design choice, specifically taught by Branscome.

With regard to claims 2 and 10, Greist discloses a sorting means with a first discharge location on the ground in Figure 1 and a second discharge location in the box in Figure 1.

With regard to claims 3 and 11, Greist discloses a substantially cylindrical perforated ring member (13 or 22).

With regard to claims 4 and 12, Branscome's tumbling device already includes a pressure wash means (36).

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Greist (US 965,813) in view of Branscome (US 5,624,077), further in view of O'Brien (US 3,863,902). Greist (as modified by Branscome) discloses a tumbling drum tilt means, but does not recite that it is powered. Providing a power means is an ordinary engineering design. In a closely related art, O'brien discloses tumbling device with a powered tumbling drum tilt means (column 4, 42-46). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to provide Greist's

tumbling drum tilt means with a powered drive, as such would be a mere design choice, specifically taught by O'Brien.

Claims 6 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Greist (US 965,813) in view of Branscome (US 5,624,077) and O'Brien (US 3,863,902), further in view of Sutton (US 5,064,292). Greist (as modified by Branscome and O'Brien) discloses substantially all of the claimed structure with the exception of a feed conveyor having an outfeed end movable into registry with the drum. It would be an ordinary engineering design to provide any known suitable feed conveyor. In a closely related art, Sutton discloses a tumbling device with a feed conveyor (Figures 1 and 2) having an outfeed end movable into registry with a drum. Therefore, it would have been obvious to one skilled in the art at the time the invention was made to provide Greist (as modified by Branscome and O'Brien) with any suitable feed conveyor, including that of Sutton's, as such would be a mere matter of a design choice.

Claims 6-8, 13, and 14, as well as can be understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Greist (US 965,813) in view of Branscome (US 5,624,077) and O'Brien (US 3,863,902), further in view of Suverkrop (US 5,560,551). Greist (as modified by Branscome and O'Brien) discloses substantially all of the claimed structure with the exception of a feed hopper capable of movement toward and away from the drum. It would be an ordinary engineering design to provide any known suitable feed hopper. In a closely related art pertinent to the problem, Suverkrop discloses a hoist system with a feed hopper capable of movement toward and away from the drum (Figure 1). Therefore, it would have been obvious to one

skilled in the art at the time the invention was made to provide Greist (as modified by Branscome and O'Brien) with any suitable feed hopper, including that of Suverkrop's, as such would be a mere matter of a design choice.

With regard to claim 8, Suverkrop discloses a base frame is already configured as a mobile transport vehicle.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Greist (US 965,813) in view of Branscome (US 5,624,077) as applied above, further in view of Sutton (US 5,064,292). Sutton is applied as above in claim 6.

Claims 15-17, as well as can be understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Greist (US 965,813) in view of Branscome (US 5,624,077) as applied above, further in view of Suverkrop (US 5,560,551). Suverkrop is applied as above in claims 7 and 8.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Y Pahng whose telephone number is 571 272 4522. The examiner can normally be reached on 9:00 AM - 7:00 PM, Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allen Ostrager can be reached on 571 272 4521. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JYP



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Group 3700